

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
To: Commission)	

**COMMENTS ON PETITIONS FOR RECONSIDERATION
OF ETC DESIGNATION ORDER**

The Commission's priority in this proceeding should be to ensure that the Universal Service Fund (USF or Fund) is administered judiciously and efficiently to advance the statutory universal service objectives. Toward that end, the Independent Telephone & Telecommunications Alliance (ITTA), the Western Telecommunications Alliance (WTA), and TDS Telecommunications Corp. (TDS) have urged the Commission to adopt criteria for the designation of eligible telecommunications carriers (ETCs) that limit the distribution of universal service support to carriers demonstrating a genuine commitment to providing high-quality, reasonably-priced telecommunications services to consumers throughout the high-cost areas in which they seek support.

We have not sought to impose unique burdens on competitive ETCs (CETCs), but only to protect consumer expectations by ensuring that all recipients of USF funding are held to comparable standards with respect to network coverage and service quality. Nor has our goal been to protect rural local exchange carriers (RLECs) from wireless competition. After all, wireless carriers that offer only spotty rural coverage pose little competitive threat. Instead, our goal in this proceeding has been to promote the integrity, accountability, and long-term stability of the Universal Service

Fund on which we and our customers rely to ensure the availability of evolving telecommunications services at rates comparable to those in urban areas.

The ITTA, WTA, and TDS Petition for Reconsideration of the Commission's *ETC Designation Order (Order)* was submitted to identify specific instances in which the *Order* departed from the paramount goal outlined above.¹ To the extent that the proposals contained in the additional petitions for reconsideration filed by various wireless interests are not inconsistent with that goal, we agree with the additional changes sought. However, we oppose those aspects of the wireless petitions that would undermine the integrity and accountability of the USF and the provision of truly *universal* service in rural and high-cost areas. Specifically:

- (1) We continue to urge the Commission to require petitioners for ETC designation to demonstrate a concrete plan for achieving full network coverage throughout the designated service area. We do not oppose shortening the duration for which a network buildout plan must be provided, as long as the plan provides the appropriate substantive showing. Incumbent carriers that already satisfy state regulatory requirements to serve their areas as carriers of last resort should not be subject to a duplicative and unnecessary requirement to file network buildout plans.
- (2) We agree with the wireless petitioners that CETCs designated by the FCC need not be subject to enhanced outage reporting requirements. It is sufficient that all carriers currently are subject to the same network outage reporting requirements.
- (3) We do not oppose the wireless petitioners' request that the Commission define the standard for what constitutes a "reasonable request" for service, as long as that standard is part of overall ETC designation guidelines that are mandatory in all states.

¹ See Petition for Reconsideration of the Independent Telephone & Telecommunications Alliance, Western Telecommunications Alliance, and TDS Telecommunications Corp., CC Docket No. 96-45 (June 24, 2005) (ITTA/WTA/TDS Petition), seeking reconsideration of Report and Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 05-46 (rel. March 17, 2005) (*ETC Designation Order*).

DISCUSSION

I. THE COMMISSION SHOULD REQUIRE PETITIONERS FOR ETC DESIGNATION TO DEMONSTRATE THAT THEY WILL PROVIDE SERVICE THROUGHOUT THE DESIGNATED SERVICE AREA

The ITTA/WTB/TDS Petition asked the Commission, among other things, to give full effect to Section 214(e)(1) of the Communications Act by requiring petitioners for ETC designation to submit network buildout plans showing an intention to provide supported services *throughout* the wire centers in which ETC status is sought.² We continue to consider that requirement to be mandated by the language of the statute, although we do not oppose shortening the duration of the network buildout plans that must be provided. However, a separate requirement to submit a network improvement plan need *not* be imposed on incumbent local exchange carriers (ILECs) who already are subject to extensive state regulatory requirements to act as the carrier of last resort (COLR) throughout their service areas.

We do not dispute the wireless petitioners' contention that a five-year horizon is too long for any realistic network improvement plan.³ It may indeed be unreasonable to expect wireless carriers to provide specific network deployment plans for a period in excess of one to two years.⁴ We also agree that ETC petitioners' network plans could contemplate the use of some USF support for "provision and maintenance" of service as well as for "improvements and upgrades."⁵ However, any changes the Commission makes to the required duration or substance of ETC petitioners' network

² ITTA/WTB/TDS Petition at 3-6.

³ Petition for Reconsideration of Centennial Communications Corp., CC Docket No. 96-45, at 3-5 (June 24, 2005) (Centennial Petition); Petition for Reconsideration of CTIA — The Wireless Association, CC Docket No. 96-45, at 4-9 (June 24, 2005) (CTIA Petition); Petition for Reconsideration of Dobson Cellular Systems, Inc., CC Docket No. 96-45, at 3-4 (June 24, 2005) (Dobson Petition); Petition for Reconsideration and Clarification of Nextel Partners, Inc., CC Docket No. 96-45, at 11-12 (June 24, 2005) (Nextel Petition).

⁴ See Dobson Petition at 3; CTIA Petition at 3-4.

⁵ Dobson Petition at 6. See also 47 U.S.C. § 254(e).

improvement plans must include a fundamental requirement that each plan demonstrate a concrete intention to achieve, within a reasonable time, the ubiquitous service coverage required by the statute. Universal service support is intended not to fund the provision of service to only “second and third tier cities and rural corridors,”⁶ but to enable the provision of service to *all* rural residents where such service is otherwise not economically viable. Accordingly, wireless carriers should not be allowed to draw support from the Fund until they have proven their commitment to meeting the statutory service requirement.

Moreover, it is entirely reasonable for the Commission to require this showing with respect to every ILEC wire center in which a petitioner seeks ETC designation.⁷ Petitioners seek ETC designation for specific ILEC wire centers, and they currently recover support based on the support the ILEC receives for those wire centers.⁸ They should similarly be required to demonstrate their intention to provide service *throughout* those wire centers. Requiring wireless ETC petitioners to show that their network plans will achieve coverage within specific ILEC wire centers does not mean that wireless ETCs will have to design their networks around the ILEC infrastructure. The obligation is simply to make a substantive showing of compliance – through whatever network architecture the ETC chooses – with the statutory condition for receiving federal universal service support.

⁶ Nextel Petition at 4.

⁷ See CTIA Petition at 9-11; Dobson Petition at 5-6.

⁸ In fact, the wireless petitioners’ arguments about the differences between the wireline and wireless networks highlight the unreasonableness of the current policy of providing USF support to CETCs based on the ILEC’s costs and funding. See, e.g., Comments of TDS Telecommunications, CC Docket No. 96-45, at 11-13 (Oct. 15, 2004).

Finally, wireless petitioners' concerns about the confidentiality of proprietary information that might be revealed in an ETC petitioner's network improvement plan do not justify eliminating the requirement for ETC petitioners to file such plans.⁹ The Commission has well-established procedures for handling proprietary and confidential information in a manner that protects the interests of the parties submitting the information while ensuring that interested parties have the information they need to participate effectively in the Commission's decision-making process.¹⁰

Although the statute requires the Commission to maintain the obligation for ETC petitioners to submit network plans showing an intention to provide full coverage throughout the designated wire centers, it is not necessary to impose a similar requirement on ILECs that currently receive USF support on an ongoing basis. ILECs already provide ubiquitous service coverage in their designated service areas pursuant to rigorous state COLR requirements.¹¹ In addition, rural ILECs recover USF support in arrears, only after they have already spent the requested funds for the "provision, maintenance, and upgrading of facilities and services for which the support is intended."¹² Accordingly, ILECs already meet the statutory requirement to provide service throughout the designated service area, and should not be subject to additional

⁹ See CTIA Petition at 7-8.

¹⁰ See, e.g., Order Adopting Protective Order, *Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, WC Docket No. 05-75, DA 05-647 (rel. Mar. 10, 2005); Order Adopting Second Protective Order, *Applications for the Transfer of Control of Licenses and Authorizations from Nextel Communications, Inc. and its Subsidiaries to Sprint Corporation*, WT Docket No. 05-63, DA 05-1480 (rel. May 20, 2005).

¹¹ See, e.g., Reply Comments of CenturyTel, Inc., CC Docket No. 96-45, at 6 (Dec. 14, 2004); Comments of TDS Telecommunications, CC Docket No. 96-45, at 8-9 (Aug. 6, 2004). Wireless carriers typically have opposed the application of comparable service requirements to wireless ETCs. See, e.g., *Ex Parte* Letter from David A. LaFuria, Counsel to Rural Cellular Association (RCA) and Alliance of Rural CMRS Carriers (ARC), to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, Attachment at 13 (Feb. 25, 2005) (contending that applying ILEC service requirements to wireless ETCs would create a barrier to entry preempted under Section 332 of the Communications Act); Comments of US Cellular Corp., CC Docket No. 96-45, at 35 n.142 (Aug. 6, 2004).

¹² 47 U.S.C. § 254(e).

and unnecessary administrative obligations related to that requirement. CETCs are required to submit network improvement plans only to demonstrate compliance with the statutory obligation that rural ILECs already meet.

II. COMPETITIVE ETCs NEED NOT BE SUBJECT TO HEIGHTENED OUTAGE REPORTING REQUIREMENTS

We support the petitions for reconsideration that ask the Commission to eliminate the heightened outage reporting requirements for ETCs designated by the Commission.¹³ As noted above, we support holding all ETCs to comparable standards with respect to network coverage and service quality. Because all carriers already are subject to the same network outage reporting requirements pursuant to the Commission's *Outage Reporting Order*,¹⁴ there is no need to require ETCs designated by the Commission to submit two different reports, in two different formats, based on substantially similar outage data.¹⁵

To the extent that the outage reporting requirements in the *ETC Designation Order* were motivated by the Commission's desire to ensure adequate CETC service quality,¹⁶ we submit that mandating CETC compliance with state service quality requirements for carriers of last resort would more directly advance that purpose.¹⁷ Requiring compliance with state service quality requirements would also promote comparable treatment of carriers receiving USF support.

¹³ Centennial Petition at 7-8; CTIA Petition at 12-14 (citing *ETC Designation Order* ¶ 69).

¹⁴ Report and Order and Further Notice of Proposed Rulemaking, *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, 19 FCC Rcd 16830 (2004) (*Outage Reporting Order*).

¹⁵ See CTIA Petition at 13.

¹⁶ *ETC Designation Order* ¶ 69.

¹⁷ See *Ex Parte* Letter from Mary Newcomer Williams, Counsel for TDS Telecom, to Marlene Dortch, Secretary, FCC, CC Docket No. 96-45 (Jan. 28, 2005).

III. ETC DESIGNATION GUIDELINES SHOULD APPLY TO ALL FEDERAL AND STATE ETC PROCEEDINGS

We also support the requests by Dobson Cellular and Nextel Partners that the Commission establish standards, applicable to both the Commission and the states, for what constitutes a “reasonable request” for service to which an ETC must respond,¹⁸ but only to the extent such standards are part of overall mandatory guidelines that the Commission requires all state commissions to apply in evaluating petitions for ETC designation.

As explained in the ITTA/WTB/TDS Petition, mandatory guidelines are necessary to ensure that universal service support is “predictable and sufficient” as required by the statute.¹⁹ Mandatory guidelines will also further important policy goals such as promoting predictability, improving the long-term stability of the Fund, and limiting the payment of USF support only to fully qualified carriers that have demonstrated a commitment to providing truly universal service.²⁰ Therefore, we urge the Commission to make the ETC designation criteria, including specific obligations to serve customers that have made a “reasonable request” for service, mandatory for all state ETC proceedings.

CONCLUSION

For the reasons set forth above and in the ITTA/WTB/TDS Petition, we urge the Commission to modify the *ETC Designation Order* as necessary to ensure that all ETCs are held to comparable standards with respect to the benefits, burdens, and obligations of universal service support. In particular, the ETC designation criteria and

¹⁸ Dobson Petition at 7-11; Nextel Petition at 9-11.

¹⁹ 47 U.S.C. § 254(b)(5).

²⁰ ITTA/WTB/TDS Petition at 12-16.

reporting requirements should hold all ETCs to comparable obligations to provide ubiquitous and reliable telecommunications services throughout their designated service areas.

Respectfully submitted,



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